

**Permitting & Assistance Branch Staff Report**  
Modified Solid Waste Facilities Permit for the  
Otay Landfill  
SWIS No. 37-AA-0010  
August 20, 2012

**Background Information, Analysis, and Findings:**

This report was developed in response to the County of San Diego Solid Waste Local Enforcement Agency's (LEA) request for the Department of Resources Recycling and Recovery (Department) concurrence on the issuance of a proposed modified Solid Waste Facilities Permit (SWFP) for the Otay Landfill, SWIS No. 37-AA-0010, located in County of San Diego and owned and operated by Otay Landfill Incorporated (Republic Services, Inc.). A copy of the proposed permit is attached. This report contains Permitting & Assistance Branch staff's analysis, findings, and recommendations.

The proposed permit was initially received on July 9, 2012. A new permit was received on August 14, 2012. Action must be taken on this permit no later than October 13, 2012. If no action is taken by October 13, 2012, the Department will be deemed to have concurred with the issuance of the proposed modified SWFP.

**Proposed Changes**

The following changes to the first page of the permit are being proposed:

	Current Permit (2005)	Proposed Permit
Total Permitted Area	464 acres	410 acres
Maximum Landfill Elevation (mean sea level)	725 feet	662.5 feet
Estimated Closure Date	2021	2028

Other Changes include updates to:

1. the LEA address and approving officer;
2. the Joint Technical Document and Preliminary Closure Post Closure Plan;
3. the Assessor Parcel Number and legal description of the facility; and
4. the LEA Findings, Self-Monitoring Requirements, and LEA Conditions in the SWFP.

**Key Issues**

The proposed permit will allow for the following:

1. A 54 acre reduction in the permitted area of the landfill due to the transfer of ownership of the 54 acre parcel from the owner/operator to the City of Chula Vista.
2. A reduction in the maximum final elevation of the landfill from 725 feet to 662.5 feet due to revised design/operation plans and closure plans.

3. An adjustment of 7 years to the estimated closure date, from 2021 to 2028, is based on the revised facility design and revised waste tonnage projections. Waste tonnage is expected to decrease due to the onsite recycling and diversion of green materials and organics, among other things.

4. A research composting operation will be added onsite, operating under an EA Notification with its own Solid Waste Information System (SWIS) number. If the experiment is successful the operation will become permanent.

5. LEA conditions in the permit were streamlined and simplified.

**Findings:**

Staff recommends concurrence in the issuance of the proposed modified SWFP. All of the required submittals and findings required by Title 27 of the California Code of Regulations (27 CCR), Section 21685, have been provided and made. Staff has determined that the California Environmental Quality Act (CEQA) requirements have been met to support concurrence. The findings that are required to be made by the Department when reaching a determination are summarized in the following table. The documents on which staff's findings are based have been provided to the Branch Chief with this Staff Report and are permanently maintained by the Waste Permitting, Compliance, and Mitigation Division.

27 CCR Sections	Findings	
21685(b)(1) LEA Certified Complete and Correct Report of Facility Information	The LEA provided the required certification in their permit submittal letter dated July 6, 2012	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(2) LEA Five Year Permit Review	A Permit Review Report was prepared by the LEA on June 21, 2010. The LEA provided a copy to the Department on September 13, 2010. The changes identified in the review are reflected in this permit modification.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(3) Solid Waste Facility Permit	Staff received a proposed Solid Waste Facilities Permit on July 9, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(4)(A) Consistency with Public Resources Code 50001	The LEA in their permit submittal package received on July 9, 2012, provided a finding that the facility is consistent with PRC 50001. Waste Evaluation & Enforcement Branch (WEEB) staff in the Jurisdiction Product & Compliance Unit found the facility is identified in the Countywide Siting Element and with the Countywide Integrated Waste Management Plan, as described in the memorandum dated August 8, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(5) Preliminary or Final Closure/ Postclosure Maintenance Plans Consistency with State Minimum Standards	Engineering Support Branch staff in the Closure and Facility Engineering Unit found the Preliminary Closure/Postclosure Maintenance Plan is consistent with State Minimum Standards as described in their e-mail approval, dated August 20, 2012	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

27 CCR Sections	Findings	
21685 (b)(7)(A) Financial Assurances Documentation Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Financial Assurances documentation in compliance as described in the memorandum dated July 25, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685 (b)(7)(B) Operating Liability Compliance	Permitting and Assistance Branch staff in the Financial Assurances Unit found the Operating Liability in compliance as described in the memorandum dated July 25, 2012.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(8) Operations Consistent with State Minimum Standards	WEEB staff in the Inspections and Enforcement Agency Compliance Unit found that the facility was in compliance with all operating and design requirements during an inspection conducted on August 9, 2012. See compliance history below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21685(b)(9) LEA CEQA Finding	The LEA provided a finding in their permit submittal package received on July 9, 2012, that the proposed permit is consistent with and supported by the existing CEQA documentation. See CEQA information below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
21650(g)(5) Public Notice and/or Meeting, Comments	No written or oral comments were received by LEA or Department staff. See Public Comments section below for details.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable
CEQA Determination to Support Responsible Agency's Findings	The Department is a responsible agency under CEQA with respect to this project. Permitting and Assistance Branch staff has determined that the CEQA record can be used to support the Branch Chief's action on the proposed modified SWFP.	<input checked="" type="checkbox"/> Acceptable <input type="checkbox"/> Unacceptable

### **Compliance History:**

WEEB staff in the Inspections and Enforcement Agency Compliance Unit conducted a pre-permit inspection on August 9, 2012. LEA and Permitting and Assistance Branch staff found that the facility is in compliance with applicable state minimum standards and permit conditions.

Below are the details of the landfill's compliance history based on the LEA's monthly inspection reports during the last five years:

- 2012 (January through June): Four violations of 44014(b) – Operator Complies with Terms and Conditions of Permit.
- 2011: One violation of 44014(b) – Operator Complies with Terms and Conditions of Permit and two violations of 27 CCR 20921 – Gas Monitoring and Control.
- 2010: One violation of 27 CCR 20680 – Daily Cover; two violations of 27 CCR 20690 – Alternative Daily Cover; one violation of 27 CCR 20700 – Intermediate Cover; two violations of 27 CCR 20750 – Site Maintenance; one violation of 27 CCR 20800 – Dust Control; one violation of 27 CCR 20820 – Drainage and Erosion Control; two violations

of 27 CCR 20830 – Litter; two violations of 27 CCR 20919 – Gas Controls; twelve violations of 27 CCR 20921 – Gas Monitoring and Control; two violations of 27 CCR 20925 – Perimeter Monitoring Network; one violation of 27 CCR 20937 – Reporting and Control of Excessive Gas; five violations of 27 CCR 21190 – Post Closure Land Use (on the closed cell); three violations of 27 CCR 21640 – Full Permit Review; and two violations of 44014(b) – Operator Complies with Terms and Conditions of Permit.

- 2009: One violation of 27 CCR 20680 – Daily Cover; one violation of 27 CCR 20820 – Drainage and Erosion Control; and twelve violations of 27 CCR 20921 – Gas Monitoring and Control.
- 2008: One violation of 27 CCR 20680 – Daily Cover; one violation of 27 CCR 20700 – Intermediate Cover; two violations of 27 CCR 20921 – Gas Monitoring and Control; and two violations of 44014(b) – Operator Complies with Terms and Conditions of Permit.

The violation of PRC 44014(b) – Operator Compliance with the Terms and Conditions of Permit will be corrected by the issuance of the proposed permit. All other violations were corrected to the satisfaction of the LEA.

### **Environmental Analysis:**

Under CEQA, the Department must consider, and avoid or substantially lessen where possible, any potentially significant environmental impacts of the proposed SWFP before the Department concurs in it. In this case, the Department is a Responsible Agency under CEQA and must utilize the environmental document prepared by the County of San Diego, Department of Planning and Land Use, acting as Lead Agency, absent changes in the project or the circumstances under which it will be carried out that justify the preparation of additional environmental documents and absent significant new information about the project, its impacts and the mitigation measures imposed on it.

The changes that will be authorized by the issuance of the proposed permit include: a reduction of the total permitted area from 464 to 410 acres; a decrease in maximum elevation from 725 to 662.5 feet mean sea level and an update to the estimated closure year date from 2021 to 2028. The project does not include an increase in the permitted daily tonnage received, traffic volume or changes in the days or hours of operation. Staff determined the updates would not be considered a change from what was previously allowed per Title 27, Section 21665(d) and supported by the existing Environmental Impact Report (EIR), State Clearinghouse No. 1996091009 that was certified/adopted by the Lead Agency on February 18, 2000.

On July 6, 2012, the LEA filed an Environmental review Update Checklist Form, for the purposes of Consideration of Conveyance of 54-acre Parcel to City of Chula Vista. Their preliminary review determined that the conveyance of the 54 acre parcel to Chula Vista adds no “new information of substantial importance” as referenced by CEQA Guidelines Section 15162(a)(3), and, therefore, did not trigger the need for further CEQA environmental review.

The County of San Diego Solid Waste Local Enforcement Agency has provided a finding that the proposed modified SWFP is consistent with and supported by the cited environmental document.

Staff recommends that the Department, acting as a Responsible Agency under CEQA, utilize the Final Environmental Impact Report as prepared by the Lead Agency in that there are no grounds under CEQA for the Department to prepare a subsequent or supplemental environmental document or assume the role of Lead Agency for its consideration of the proposed modified SWFP.

The administrative record for the decision to be made by the Department includes the administrative record before the LEA, the proposed modified SWFP and all of its components and supporting documentation, this staff report, the Final Environmental Impact Report adopted by the Lead Agency, and other documents and materials utilized by the Department in reaching its decision on concurrence in, or objection to, the proposed modified SWFP. The custodian of the Department's administrative record is Dona Sturgess, Legal Office, Department of Resources Recycling and Recovery, P.O. Box 4025, Sacramento, CA 95812-4025.

**Public Comments:**

The project document availability, hearings, and associated meetings were noticed consistent with the SWFP requirements. No written comments were received by the LEA or Department staff.

The Department staff provided an opportunity for public comment during the CalRecycle Monthly Public Meeting on July 17 and August 21, 2012.